

DESOTO COUNTY BOARD OF SUPERVISORS
BOARD MEETING MINUTES

JOHN M. M. CALDWELL, PRESIDENT, PRESIDING

July 28, 1997

A. CALL TO ORDER

The July 28, 1997, meeting of the DeSoto County Board of Supervisors was called to order by John M. M. Caldwell, Sr., Board President.

Phil Cottam, the DeSoto County Sheriff was present and did open the DeSoto County Board of Supervisors meeting in a regular session to hear any and all business to come before the Board. The following were present:

Jessie Medlin-----District 1
Eugene C. Thach-----District 2
James D. Pearson-----District 3
John Caldwell-----District 4
Tommy Lewis-----District 5
W. E. ASluggo@ Davis-----Chancery Clerk
Phil Cottam-----Assistant Chief
Clovis Reed-----County Administrator
William H. Austin, Jr.-----Board Attorney

B. INVOCATION

The invocation was presented by Supervisor John Caldwell.

C. ADMINISTRATION BUILDING REPORT

Harvey Ferguson of the Administrative Building Committee, Demery Grubbs of Holly Grubbs, Mitcham, and Phillips, Financial Consultants/Advisors for the Administrative Building project, and David Nicholson of Allen and Hoshall, Architects/Engineers for the Administrative Building project appeared before the Board of Supervisors to present an update on the Administrative Building Committee met to see the presentation made by Allen and Hoshall on the preliminary design of the building. At the meeting, Phillip Lachaussee made the motion and Ed Gale seconded the motion to recommend to the Board of Supervisors that Allen and Hoshall go ahead with the building plans. Mr. Ferguson reported that one other major concern of the committee is the parking and they recommend the Board of Supervisors consider looking for an area that could provide future parking. Right now there will be enough parking area, but in the future parking problems will increase due to growth.

David Nicholson of Allen and Hoshall said they began the process of working on the Administration Building two years ago. Mr. Nicholson said that many changes have taken place since the project was started. Mr. Nicholson presented a summary of the preliminary design on the project. Mr. Nicholson said that in the last 60 days they got a

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number account of how many people they will need to accommodate in the new building for the next 15 years. Estimates are to go from 70+ employees to 90+ employees. They have looked at space for people as well as space for records. 28,025 square feet are needed without allowing for hallways and restroom type areas bringing the total square feet to 40,900 square feet at the present time. In order to allow for estimated growth over the next 15 years, there is about 15% of unprogrammed space being planned, therefore allowing for growth bringing the total square feet recommended for the building to 47,700.

Mr. Nicholson presented an explanation of the site plans for the building. The new plans included moving the building back 25' to develop an entrance way. Mr. Nicholson said the plans were developed to maximize parking space. The plans include a full three story building rather than 2 2 stories and they have changed the outside of the building to better fit in with the surrounding architecture. The Tax Assessor, Tax Collector, central mail, receiving storage, plus various other areas will be located on the first floor along with some of the unprogrammed space. Exterior corridors will be available. Offices and cubicals are planned without excessive space in any office. The second floor will house the Planning Commission, GIS and mapping, County Engineer, etc. The third floor will house Data Processing, the County Administrator, the Board of Supervisors, the Board Attorney, and a large conference room. Smaller conference rooms will be used on the other floors.

Elevation diagrams were shown. Mr. Nicholson said the cost estimate for the building with 47,700 square feet is \$6,345,000.00, which is the same or less than projected two years ago. Mr. Nicholson said that if we start today, it will be August of 1999, before the building is available. The plan would be to build the building and move the appropriate offices to the new building and then begin to work on the offices in the court house.

Further, Mr. Nicholson explained that Allen and Hoshall recommends planning for 15% growth. There could be savings of \$150,000.00 to \$200,000.00 associated with not finishing the unprogrammed area until the area is needed for use. Another option would be to build a 40,000 square feet building with no area for growth. You would save money by building a smaller building, but expansion would be much more costly later.

Supervisor Eugene Thach said he did not realize it would be that much extra space needed to increase to 90+ employees. David Nicholson explained how they arrived at that figure and explained that the area of square feet per person compares closely to the average space per person in most businesses. Supervisor Thach said he feels we should be conservative in planning the building and had thought some of the offices located in the Board of Education building would decrease the size of the building. Supervisor James Pearson said 12 years ago we thought the court house expansion would be adequate, but we have now more than outgrown the space and the county is renting space throughout DeSoto County. Supervisor Thach said there is a push for less government, but these plans call for more area for more government. Supervisor Tommy Lewis said he feels the Board of Education property will be of more value for sale later on, when that corridor becomes like Goodman Road.

Supervisor Jessie Medlin asked the square footage for the mail room. David Nicholson said 500 to 700 square feet. County Administrator Clovis Reed said Allen and Hoshall was charged with looking at county needs for the next 20 years. Supervisor James Pearson said Justice Court growth has come from a two office area to the building and now a new building in the last 12 years.

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Supervisor Eugene Thach said there should be one conference room on each floor and that is it. The Tax Assessor and Tax Collector have one room each on the plans and everyone else will go to the end of the hall. Perhaps the square footage of each area could be cut in this area.

Supervisor John Caldwell said there is a lot of unprogramed space in the building. Supervisor Caldwell said he was leaning on leaving off the one of the floors. Mr. Nicholson said the estimates were based on the number of employees given to them by the various offices.

Supervisor Eugene Thach said they are doing a good job on the design. David Nicholson asked if they want to go on with the court house plans. The Board of Supervisors agreed that project is too far off to really plan for at this point. Supervisor John Caldwell asked if the Committee had heard the Courthouse presentation. Mr. Ferguson said they recommend to go on with that project also. David Nicholson said estimates of the renovation is within the same range discussed.

Supervisor Tommy Lewis made the motion and Supervisor James Pearson seconded the motion to proceed with the plans to remodel the courthouse. The **motion passed** by a unanimous vote.

Supervisor Eugene Thach asked about parking. Harvey Ferguson said the committee sees that as the biggest problem from the court house area. David Nicholson recommends not doing a study now to allow Allen and Hoshall to see how much area they will have with the building. Supervisor Eugene Thach thinks the city should look into the parking situation. Clovis Reed says he thinks that is their intent.

Supervisor Tommy Lewis made the motion to proceed with Allen and Hoshall to do the final plans on the building taking into consideration the comments heard here. Supervisor James Pearson seconded the motion. The **motion passed** by a unanimous vote.

Supervisor John Caldwell said on behalf of the Board of Supervisors they appreciate the work of the committee.

See Exhibit C.

D. THOMPSON COVE - LARRY & JOAN HARRISON

Larry Harrison said they came before the Board of Supervisors on September 16 about the problems at Thompson Cove. The order of the Board on that date has still not been carried out. Every time they cut Mrs. Thompson=s grass, they have to call a deputy to keep Mr. Archer from tearing up the lawn mower. Joan Harrison asked why the Board of Supervisors write letters to the Archer=s if they have no intention of carrying out the orders. Mr. Harrison said that if this situation occurred on Holly Springs Road, the Board would do something about the problem. Mr. Harrison asked how the road was widened if there were no deminisions. He said this matter has been taken to the State Supreme Court, at great expense to his mother. Mr. Archer lost the case and on appeal lost again. Even still the fence is up to the edge of the black top, making it impossible for two cars to travel the road at the same time. Mr. Harrison said they request the fence to be moved back and the turnaround fixed as anyone traveling down the road has to use his mother=s circle drive to turn around now, including school buses, the mailman, and the county garbage truck.

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Joan Harrison said she does not understand why the Board can issue an order and not have it done. Also, when Mr. Archer violates County policies, the Board does nothing to enforce the law. Supervisor Jessie Medlin said we have put him through the courts, but the judges don't do anything about it. William Austin, the Board Attorney, said the Board of Supervisors is not an enforcing agency and are not authorized to do anything to Mr. Archer. When the County sent an agent to assess some of the complaints on the situation, Mr. Archer threatened the man.

Supervisor John Caldwell said the problem has been going on for 16 years and there is no quick answer. He said the County Engineer, Daniel Murphy told him the estimated cost of the survey would be \$5,000.00 plus. Supervisor Caldwell said to put up a fence would be useless as Mr. Archer would likely tear down the fence as soon as it was put up.

Supervisor Jessie Medlin said he disagrees with Kenny Gunn on the fence and thinks the County should move the fence and then get a right of way. Supervisor Medlin said Justice Court refuses to do anything to Mr. Archer when he has appeared there.

Supervisor James Pearson said he sympathizes with the Harrison=s because he has been here the whole time they have been coming before the Board of Supervisors to get this solved.

Supervisor Eugene Thach said he understood the County Engineer was going to work on the right of way. Supervisor Thach said he thinks the County should get the right of way by doing a survey and move the fence. Then, if Mr. Archer does anything, the County should take him to court. Supervisor Tommy Lewis said he does not know that this suggestion would be the answer to the problem. Supervisor Eugene Thach said this situation has been going on for six years. This is a ridiculous situation. No one in the County should get away with threatening people with no one doing anything about it. The County can't get a survey done because nobody will go down that road. Supervisor Thach asked the Board Attorney to advise them on the problem. The Board Attorney said the bottleneck is in the judicial system and the enforcement system. Supervisor Eugene Thach made the motion and Supervisor James Pearson seconded the motion to do a survey, paying up to \$6,000.00 and erect a fence in the appropriate space based on the survey, and if this fence is changed in any way, take the person who moves the fence to Justice Court. The motion did not pass by a vote as follows:

Supervisor Jessie Medlin-----Yes
Supervisor Eugene Thach-----No
Supervisor James Pearson-----Yes
Supervisor John Caldwell-----No
Supervisor Tommy Lewis-----No

Supervisor Jessie Medlin said he does not agree with spending taxpayer dollars for a survey because Mr. Archer is going to have the new fence torn down. Supervisor John Caldwell asked what will be gained if the County builds the fence and Mr. Archer does not tear it down. Can the County move illegal fences on all roads throughout the County? Bill Austin asked what recourse the Board would take if a survey was done and Mr. Archer said it is incorrect, as he has done that on the last survey. Supervisor Tommy Lewis said the County would be no better off in that case, even after spending over \$5,000.00.

Supervisor Eugene Thach asked Kenny Gun if he knew where to move the fence. Mr. Gunn said if the Board wants him to use the last survey, he does. Otherwise, he could use points 30' from the center of the road. Supervisor Tommy Lewis asked if the Board

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is within their legal right to move the fence within their prescriptive rights. However, since the County was not a party to the law suit, they have no rights from the outcome of the suit. Kenny Gunn said he cannot establish a prescriptive right of way, but he can determine the measurements according to the court order saying 30' from the center of the road. Mr. Austin explains that a previous Board ordered Mr. Cook to get with Mr. King to see if they could determine where Mr. King put the rebarbs down and he believes they did do that. However, the road has continued to move. Mr. Austin speculates that since any survey done on this property will likely go to court, any surveyor that is worth his salt, will do the survey based on the property stakes. The survey may not have the same actual appearance, it has on paper and will even more likely be appealed. Therefore, a survey will likely cost a lot of money.

Supervisor Eugene Thach said he is also concerned about the turnaround as it was already there. As government officials, Supervisor Thach said the Board should enforce the law. Supervisor Thach said this has been going on for the sixth year and we need to be advised legally what we should do to end the problem. He had the understanding the Attorney said the Board should get a survey and now the board says it cost too much. But whatever the decision of the Board, the County will likely have a law suit. Supervisor Tommy Lewis said the Board is now in an enforcement situation.

The Board Attorney reminded the Board that Mr. Archer is saying the survey is incorrect. Joan Harrison asked where Mr. Archer wants the road. The Board Attorney said he is sure Mr. Archer could tell her. Ms. Harrison suggested meeting with Mr. Archer here in the Board room and asking him. Mr. Austin said that was recommended as a solution at one time by a previous attorney of Mr. Archer, the Honorable Bob Guilder, but that did not work at that time.

William Austin, the Board Attorney, said although this may not work, he thinks the Board should try some means of arbitration to see if we can get together with Mr. Archer and the Thompson=s or their representative to see if there is any common ground for the road to be laid out near where it is now, and mark and measure that and put stakes in the ground. Then have an engineer give us a legal description and have both families quitclaim their right of way. Larry Harrison said that Mr. Archer will not agree to do that. Sluggo Davis asked if Mr. Harrison would be willing to do that. Mr. Harrison said yes, but it won=t do any good. The County Administrator said that Mr. Archer has said he will agree with an actual survey, so he may agree e to such a meeting. Supervisor Eugene Thach verified that Mr. Archer said he will agree with a new survey. Supervisor Thach suggested getting Mr. Archer and the Thompson=s to agree in writing that they will agree with the survey, and get a survey done.

Supervisor Jessie Medlin said it may be worth a meeting with the Archer=s and the Thompson=s to find what he wants. Supervisor Tommy Lewis asked if that is what the Board Attorney recommends. The Board Attorney said he would recommend something in reverse of that, by going to the property and driving stakes in the ground and getting a survey based on the staked off property. Then the Archer=s and Thompson=s could quitclaim a right of way to the County.

Larry Harrison said the Board knows what we want. Could you talk to him to see what he wants. The Board Attorney pointed out that this meeting would pertain to the road and turnaround and explained that the County cannot do anything about his mother=s yard. Mr. Austin said Mr. Harrison said the best thing to do would be to get a survey to back you up, move the fence and be through with it. The Board Attorney said Mr. Archer could change the survey stakes before the fence is built. Supervisor Eugene Thach said the Board has already gone with that approach. The Chancery Clerk, Sluggo Davis, asked if they are against moving the road if it is on the section line.

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Supervisor Eugene Thach said not if that is where it should be. Mr. Davis asked if the road was there when Mr. Thompson bought the property. Mr. Harrison said yes. The Road Manager, Kenny Gunn, said that according to Mr. Archer the road stopped at the Thompson=s property and went behind the Thompson=s house. When the Archer=s built their house, they built a driveway off the end of the road up to their house. The Thompson=s were allowed to use that road to get to their property. Mr. Gunn said he did not know if that is true. Larry Harrison said there has never been a road since 1958, because he built the fence on the property.

Chancery Clerk Sluggo Davis verified that prescriptive rights to property granted right of ways from ditch bank to ditch bank. The Board Attorney verified that County prescriptive right of ways went from the back of the ditch bank to the back of the ditch bank. Mr. Davis said in this case there is no ditch bank there.

Supervisor Jessie Medlin made the motion and Supervisor James Pearson seconded the motion to move the fence back according to the most recent court order, and if a ditch is needed, build a ditch, and fix the cove. The motion passed by a unanimous vote.

E. BID OPENING FOR \$3,000,000.00 FOR INTERIM FINANCING NOTE

Bids were opened for the interim financing for the Civic Center. The bids were as follows:

Union Planters Bank-----	5.04%
First Tennessee Bank-----	4.59%
Deposit Guaranty Bank-----	4.70%
Peoples Bank-----	4.88%
Bank of Mississippi-----	4.19%
Trustmark Bank-----	4.55%

Supervisor Jessie Medlin made the motion and Supervisor James Pearson seconded the motion to accept the low bid from the Bank of Mississippi of 4.19% for interim financing for the Civic Center. The **motion passed** by a unanimous vote.

F. NEW BUSINESS

1. College Road and Highway 305 - Removal of Fence

Supervisor Jessie Medlin said that he has looked at the intersection of College Road and Highway 305 and the only thing that needs to be moved is a fence. The fence can be moved for an estimated cost of \$1,045.20. Supervisor Jessie Medlin made the motion and Supervisor Eugene Thach seconded the motion to move the fence at the intersection of College Road and Highway 305 at an estimated cost of \$1,045.20. The **motion passed** by a unanimous vote.

G. OTHER BUSINESS

1. Appointments

Supervisor Jessie Medlin made the motion and Supervisor Eugene Thach seconded the motion to appoint Trudy Haven to the Handicap Committee to represent the First District. The **motion passed** by a unanimous vote.

Item G., Continued,

2. NACo Trip

Supervisor Jessie Medlin made the motion and Supervisor John Caldwell seconded the motion to approve the per diem expenses for the County Administrator and the Board Attorney to attend to NACo trip. The **motion passed** by a unanimous vote.

3. Purchase of Land for Civic Center

Supervisor Eugene Thach made the motion and Supervisor Jessie Medlin seconded the motion for the Chancery Clerk, W. E. ASluggo@ Davis and Supervisor John Caldwell to approve the first draw down for up to \$700,000.00 for the purchase of land for the Civic Center. The **motion passed** by a unanimous vote.

4. Invitation to Planning Conference at NWCC

Chancery Clerk Sluggo Davis reminded the Board of Supervisors of their invitation to attend the planning conference for governmental affairs at NWCC.

Supervisor Tommy Lewis indicated his plans to attend the conference.

5. Utilities - Ranch Road

The Road Manager, Kenny Gunn, presented a letter from Glenn Isom of Entergy showing a cost estimate to move the utility lines and poles on Ranch Road. County Administrator Clovis Reed said they will decrease the cost by 2/3 according to Terry Allemand at Entergy if the County will work to not move the poles until necessary. If so, the cost may decrease to \$50,000.00 to \$60,000.00. **See Exhibit G.5.**

6. Purchase of Tractor on State Bid

The Road Manager, Kenny Gunn asked if he could buy a tractor on state bid. The Board asked him what kind of tractor he was purchasing. Mr. Gunn said a 4 wheel drive, 80 horse power tractor would be purchased. The Board Attorney said the process was legal.

Supervisor Tommy Lewis said he would like to see the County bid this out and purchase them locally. The County Administrator said that if a local dealer meets the price with a comparable model, they can be bought locally. The Board Attorney and County Administrator said they need to research the procedure for that.

Supervisor Lewis stressed the importance of taking the low price.

Supervisor Jessie Medlin made the motion and Supervisor John Caldwell seconded the motion to authorize the Road Manager to buy one tractor off the state contract. After some discussion the motion and the second were withdrawn.

Supervisor Eugene Thach made the motion and Supervisor James Pearson seconded the motion to adjourn until Monday, August 4, 1997, at 9:00. The **motion passed** by a unanimous vote.

THIS the 28th day of July, 1997, these minutes have been read and approved by the DeSoto County Board of Supervisors.

JOHN M. M. CALDWELL, President
DeSoto County Board of Supervisors